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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,979	03/18/2005	Raphael Quinet	P16489-US1	2906

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ERICSSON INC.
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EXAMINER

SEYE, ABDOU K

ART UNIT	PAPER NUMBER
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2194

MAIL DATE	DELIVERY MODE
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01/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/509,979

Applicant(s)

QUINET ET AL.

Examiner

Abdou Karim Seye

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 19-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendment filed on September 18, 2007 has been received and entered. The amendment amended Claims 1, 5-8, 14, 19-20 and 22, and cancelled claims 17-18. The currently pending claims considered below are Claims 1-16 and 19-24.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 19, 20 and 22 are non statutory. The claimed system (see specification, page 7, line 3-5) comprising of an intermediate component , a processor unit and a communication interface are considered as software program containing machine-executable instructions, per se (and not associated with any physical structure). See MPEP 2106.01 - I: "...computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized...".

Dependent claim 21 and 23-24 are also affected by the rejection of non statutory claims 20 and 23-24.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-16 and 19-24 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Bhagwat et al. (US 6563517)** in view of **Keshav, Srinivasan** "An engineering approach to computer networking: ATM networks, the internet, and the telephone network", Addison-Wesley, 1997.

Claims 1, 19, 20 and 22, Bhagwat teaches, a system product and method, in a communications network, of controlling an object transfer from a first component to a second component remote from the first component, wherein the object transfer is based on a plurality of object requests relating to objects referred to in one or more codes to be processed by the second or another component of the communications network, the system, product and method comprising steps of:

utilizing an intermediate component positioned between the first and the second component (FIG. 1: 190) for:

sending an object request to the first component (FIG. 1; col. 13, 28-67);

receiving the requested object from the first component (col. 13, 28-67);

estimating traffic over a link, comprising a number of connections between the intermediate component and the second component to determine whether the link is fully used before suspending a connection to avoid wasting available bandwidth (FIG. 3; col. 4, lines 46-67);

However, Bhagwat does not teach dynamically assigning a priority to the requested object, wherein an initial priority has been assigned to the requested object on the basis of an analysis of at least one of the object request and the code that refers to the requested object; and depending on the priority of the requested object, the intermediate component delaying the requested object or forwarding the requested object to the second component.

Whereas, in the same field of endeavor S. Keshav discloses a link scheduler that decide which packet goes next on a link by using priority level and causing delay on the network traffic (page 54 and chapter 9, page 223-263).

It would be obvious to a person of ordinary skill in the art at the time the invention was made to modify Bhagwat's invention with S. Keshav's invention in order to include priority level on the requested object and causing delay of these requested object based on their priority level. One would be motivated to include priority level when

processing these requested object and causing delays in order to provide good performance or fairness bounds in a data processing system (S. Keshav's; page 261).

As to claim 2, S. Keshav teaches, wherein the delaying is performed such that an order in which the objects are received from the first component differs from the order in which the objects are forwarded to the second component (page 231-233).

As to claim 3, Bhagwat teaches wherein the object request is received from the second component or generated by the intermediate component (FIG. 1).

As to claim 4, S. Keshav teaches, wherein delaying of the requested object includes at least one of instructing the second component to repeat the object request, suspending a connection to the second component via which the requested object is to be forwarded, and informing the second component that the requested object will automatically be forwarded at a later point in time (page 247-251).

As to claim 5, S. Keshav further teaches, wherein instructing the second component to repeat the object request includes: assigning a specific attribute to the object to be delayed; informing the second component of the attribute; receiving a reference to the attribute from the second component; and upon receipt of the reference to the attribute, sending the delayed object to the second component or further delaying

the delayed object (page 223-263).

As to claim 6, Bhagwat teaches wherein requested objects are forwarded via the number of connections to the second component based on comparing the average throughput of the number of connections to the second component to an amount of data that is currently cached or buffered in the, intermediate component (col. 8, lines 42-67 and col. 8, lines 1-25) .

As to claim 7, S. Keshav teaches, wherein selected ones of the number of connections to the second component are suspended dependent upon the priorities of the requested objects that were received from the first component and that are to be forwarded via the selected ones of the connections (page 100-101).

As to claim 8-13, 14-16, 21 and 23-24, they are rejected for the same reasons as the claims above.

Conclusion

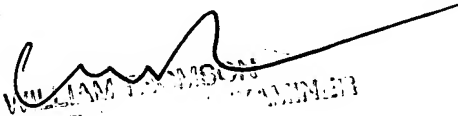
5. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

Cherkasava et al (6154769) discloses scheduling server requests to decrease time and increase server throughput.

Takats (US 2002/0042848) discloses a method of providing services in a network management system having an open system architecture and also a service object, a request object and a request manager therefor.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. Abdou Seye whose telephone number is (571) 270-1062. The examiner can normally be reached Monday through Friday from 7:30 a.m. to 4:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, contact the examiner's supervisor, William Thomson at (571) 272-3718. The fax phone number for formal or official faxes to Technology Center 3600 is (571) 273-8300. Draft or informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 273-6722. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-3600.

AKS
January 3, 2007


WILLIAM THOMSON
SUPERVISOR